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October 12, 2012

BY EMAIL

Hon. Denise L. Cote
United States District Judge
500 Pearl Street, Room 1610
New York, New York 10007-1312

Per DLC Chambers, docket in:
 11-cv-5201 11-cv-6188
 11-cv-6189 11-cv-6190
 11-cv-6192 11-cv-6193
 11-cv-6195 11-cv-6196
 11-cv-6198 11-cv-6200
 11-cv-6201 11-cv-6202
 11-cv-6203 11-cv-6739
 11-cv-7010 11-cv-7048

RE: *FHFA v. UBS Americas Inc.*, 11-cv-5201(DLC)

Dear Judge Cote:

On behalf of the UBS Defendants in the above-referenced action, we write to correct a misrepresentation contained in Plaintiff's letter sent to the Court earlier today.

On page two of its letter, Plaintiff represents that "[i]t was immediately after the July 31 conference at which Defendants first reported that large numbers of loan files were in the hands of third parties, and after the Court made clear that it expected the parties to collect loan files from third parties, that Defendants began issuing subpoenas on third-part[ies]" (emphasis added). With this statement and throughout its letter, Plaintiff suggests to the Court that Defendants have not diligently pursued loan files in the hands of third parties.

In fact, Defendants first informed Plaintiff that a large number of loan files were held by third parties during the December 2, 2011 conference,¹ and again during meet-and-confers in June. Defendants began serving subpoenas on those parties as early as June 12, 2012 – seven weeks prior to the July 31 conference. In that initial round of subpoenas, the UBS Defendants sought to comprehensively capture all of the supporting loan files at issue in the securitizations on which FHFA's claims against them are based. During a meet-and-confer held today, the UBS Defendants informed Plaintiff of the inaccuracy of its statement to the Court and Plaintiff did not

¹ See 12/2/11 Tr. at 34 ("The loan files are in many instances not held by any of the defendants. They're held by non-parties, by various servicers, for instance.")

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dispute its falsity. Nevertheless, Plaintiff declined our request that it correct the misrepresentation and invited Defendants to do so instead.

We are available to discuss this issue further at the conference with the Court, currently scheduled for October 15.

Respectfully submitted,



Robert A. Fumerton

cc: All counsel (by email)